



**STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES**

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SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**MINUTES
FOR THE MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: October 22, 2021
TIME: 9:00 A.M.
LOCATION: Online via ZOOM, Livestream via YouTube

A. MINUTES

1. Approval of the Board meeting held August 27, 2021, Minutes. **APPROVED**

C. DIVISION OF FORESTRY AND WILDLIFE

1. Request for approval and acceptance of Notice of Federal Participation and Consent regarding a U.S. Fish and Wildlife Service grant for restoration of the Honu'apo Estuary property acquired in 2006, Kau, Hawaii, Tax Map Key: (3) 9-5-014:002-007,027 & 052-059. **APPROVED**

D. LAND DIVISION

1. Issuance of Land Patent in Confirmation of Land Commission Award No. 7585, Apana 1 to Kamiona, situate at Kalihikai, Hanalei, Island and County of Kauai, Tax Map Key: (4) 5-3-004:034. **APPROVED AS AMENDED: Amended the submittal on pg. 2 by replacing quitclaim deed to warranty deed, but otherwise approved Staff's recommendations.**
2. Intentionally Left Blank
3. Consent to Ground Lease to the County of Hawaii for the Kukuioia Emergency Shelter and Permanent Supportive Housing Project at Village 9, Villages of La'i'Opua, Kealakehe, North Kona, Island of Hawaii, Tax Map Key: (3) 7-4-020 portion of 004.

Withdrawal of Portion of Executive Order No. 4575, Hawaii Housing and Development Corporation; Set Aside 1.05 Acres to County of Hawaii, Department of Public Works, for Roadway Purposes, Villages of La'i'Opua, Kealakehe, North Kona, Island of Hawaii, Tax Map Key: (3) 7-4-020 portion of 004.

Issuance of a Right-of-Entry Permit to County of Hawaii, Department of Public Works for Road Construction and Management Purposes, Villages of La'i'Opua, Kealakehe, North Kona, Island of Hawaii, Tax Map Key: (3) 7-4-020 portion of 004. **Approved as amended:**

Recommendation section by adding recommendation number 4 as follows:

4. *Consent to lease by the Hawaii Housing Finance and Development Corporation to the County of Hawaii under the terms and conditions cited above, subject to the following:*
 - a. *Review and approval of the Department of the Attorney General; and*
 - b. *Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.*
4. Annual Renewal of Revocable Permits for Maui County. See **Exhibit 2** for list of Revocable Permits. **APPROVED**
5. Issuance of Immediate Construction Right-of-Entry Permit to Napili Bay and Beach Foundation Inc. (NBBF) to Construct Elevated Beach Access Stairs and Dune Walkover; Issuance of Revocable Permit to NBBF for Public Access Purposes and to Maintain Existing Beach Access Paths and the New Elevated Beach Access Stairs and Dune Walkover until an Easement is Granted; Grant of 25-year Term Non-Exclusive Easement to NBBF for Public Access Purposes, Napili, Kaanapali, Maui, Tax Map Key: (2) 4-3-002: 023 por. and 099 por. **APPROVED**
6. Amend Prior Board Action of June 10, 2021, Item D-3, *Consent to Mortgage and Request to Issue Estoppel Certificate, General Lease No. S-5954, Diamond Head Theatre, Lessee, Kaimuki, Honolulu, Oahu, Tax Map Key: (1) 3-2-030:001.*

The purpose of the amendment is to amend the subject lease by reserving the Board's right to evaluate whether any purchaser is qualified for nominal rent in accordance with Section 171-43.1, Hawaii Revised Statutes if the subject lease is sold in forfeiture. **APPROVED**

7. Amend Prior Board Action of August 27, 2021, Item D-5, *Cancellation of Governor's Executive Order No. 3427; Issuance of Quitclaim Deed to the Stadium Authority; Aiea, Ewa, Oahu, Tax Map Key: (1) 9-9-003:055, 061, 070, & 071.*

The purpose of this amendment is to exclude an area of about 1,023 square feet or 0.023 acre, presently encumbered by Governor's Executive Order No. 3838, from the proposed fee transfer to the Stadium Authority. **APPROVED**

8. Adoption of Guidance to Appraisers for the Determination of the Upset Rent for Public Auctions for Water Leases for Consumptive Use Purposes Pursuant to Section 171-58, Hawaii Revised Statutes. **APPROVED AS AMENDED:**

The Board amended the submittal: (i) on page 2, second full paragraph by rephrasing the statement that says "it would be appropriate to use the current revocable permit rent as a starting value" to "the appraiser may consider using the current revocable permit rent in its valuation and analysis"; and (2) striking the 7th factor of public benefit in the appraisal analysis.

E. STATE PARKS

1. Amend Prior Board Action of June 26, 2020, Item E-1, License of Federal Property from the United States of America to the Department of Land and Natural Resources, Division of State Parks for State Park purposes, at Makua, Waianae, O'ahu, Tax Map Key Nos.: (1) 8-1-001: 001, 002, 009, 010 and (1) 8-2, 001: 002, 009, 010 in order to:

(1) Authorize the Continued Use of the subject area for State Park purposes from March 1, 2011, to December 31, 2019; and

(2) Authorize a Declaration of Exemption from the preparation of an Environmental Assessment Pursuant to Chapter 343, Hawaii Revised Statutes. **APPROVED**

2. Consent to Assign General Lease No. SP0119, David Koch, Assignor, to, Assignee, M & M Fitzgerald Living Trust; and

Amendment of General Lease No. SP0119, David Koch, Lessee, Waimea Canyon State Park, Lot 45, Koke'e Camp Site Lots, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-004:009. The purpose of the amendment is to correct the termination date to read December 31, 2028. **APPROVED**

3. Consent to Assign General Lease No. SP0131, William Olson, Assignor, to, Assignee, Olson Family Trust LLC, a Hawai'i Limited Liability Company; and

Amendment of General Lease No. SP0131, William Olson, Lessee, Waimea Canyon State Park, Lot 72, Koke'e Camp Site Lots, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-004:068. The Purpose of the amendment is to correct the termination date to read December 31, 2028. **APPROVED**

J. DIVISION OF BOATING AND OCEAN RECREATION

1. Issuance of Revocable Permit to Hoemana for Storage and Recreational Purposes, Kawaihae South Small Boat Harbor, Kawaihae, Kohala, Hawaii, Tax Map Key: (3) 6-1-003:026 (Portion); and

Declare Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules. **APPROVED**

2. Request for Approval and Adoption of amendments to Hawaii Administrative Rules (HAR) Title 13, Chapter 256, Ocean Recreation Management Rules and Areas, Subchapter 11, West Hawaii Island Ocean Recreation Management Area, Section 13-256-152, Kahaluu Bay ocean waters, to clarify commercial activity provisions, and compilation of HAR Chapter 13-256, making technical, nonsubstantive, and conforming amendments.

The proposed rule amendment can be reviewed in person at the Division of Boating and Ocean Recreation (DOBOR) District Offices, including the Hawai'i District Office from 8:00 am to 3:30 pm, Monday through Friday, except state holidays: Honokōhau Small Boat Harbor, 74-380 Kealahake Parkway, Kailua-Kona, HI 96740.

The proposed rules, including a statement on the topic of the proposed rule amendment, can be reviewed online at:

<https://ltgov.hawaii.gov/the-office/administrative-rules/proposed-changes/>.

The proposed rules can also be viewed online at: <https://dlnr.hawaii.gov/dobor/draft-rules>.

Location and contact information for DOBOR offices is available online at: <https://dlnr.hawaii.gov/dobor/contact>

APPROVED

3. Request approval of proposed time period given to mooring permittees to remedy accounts that are delinquent in payments and/or to remedy violations of Hawaii Revised Statutes (HRS) and/or Hawaii Administrative Rules (HAR); and delegate authority to the Chairperson to revoke use permits if after lapse of the time period, the permittee fails to remedy the delinquency and/or violation. **APPROVED**
4. Authorize alternative beach landing site to Welakahao Catamaran, Inc.(Revocable Permit 41) and King Parsons Enterprises, Ltd., (Revocable Permit 42) Catamaran Operators Permitted to Embark and Disembark Passengers on Waikiki Beach; and

Declare the Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules. **DEFER**

5. Denial of Petition for Contested Case Hearing filed on October 6, 2021, by Ka Malu O Kahālāwai, Nā Papa'i Wawae 'Ula'Ula, Kekai Keahi, and Kai Nishiki, regarding the Renewal

of Commercial Use Permits for Hawaiian Rafting Adventures Inc., Lahaina Harbor Water Taxi Inc., and Underwater Safari, Inc. for Mala Launch Ramp, Maui. **APPROVED**

The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

6. Request for Administrative Enforcement and Penalties for the alleged violations of Hawaii Administrative Rules Section 13-256-3 (Commercial use permit or catamaran registration certificate requirements) against Twogood Kayaks Hawaii, Inc., for allegedly conducting commercial activity without a commercial use permit on at least five separate occasions in Kailua ocean waters, on the Island of O'ahu. **APPROVED**

The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

K. OFFICE OF CONSERVATION AND COASTAL LANDS

1. Submittal and Recommendation to the Governor to Accept the Final Environmental Impact Statement (EIS) for the Kā'anapali Beach Restoration and Berm Enhancement by the Department of Land and Natural Resources Located at Hanakao'o, Lahaina, Maui, Makai of Tax Map Keys: (2) 4-4-008:001, 002, 003, 005, 019 & 022; (2) 4-4-013:001, 002, 006, 007, 008 & 013

The draft FINAL EIS for the Kā'anapali Beach Restoration and Berm Enhancement can be reviewed at: <https://dlnr.hawaii.gov/occl/kaanapali/>
APPROVED

L. ENGINEERING

1. Delegation of Authority to Chairperson to Procure, Award and Enter into a Services Contract to Perform Research and Planning Assistance Pertaining to Mineral Resources, Island of Hawaii, pursuant to Act 191 (SLH 2021). **APPROVED**

M. OTHERS

1. Issuance of a Revocable Permit for Contractor office trailer parking area, material storage container staging area and refuse dumpster staging area, Nan, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001. **APPROVED**

2. Issuance of a Revocable Permit for an office for ground support as part of its Airline Operations, Southwest Airlines Co., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 050. **APPROVED**
3. Issuance of a Revocable Permit for an office space for the storage of a main data frame that provides network connectivity to the overseas terminal, United States of America, Department of Homeland Security, Transportation Security Administration, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001. **APPROVED**
4. Issuance of a Revocable Permit for shared use of a sprung structure for storage and maintenance of aircraft, John Totah, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003. **APPROVED**
5. Issuance of a Revocable Permit for office spaces in the terminal to perform security services operations, Universal Protection Service, LP dba Allied Universal Security Services, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003. **APPROVED**
6. Amend prior Board Action of June 12, 2020, Item M-5, Acquisition of Temporary Construction Rights-of-Entry to Land to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Kamehameha Highway, Laieloa Stream Bridge Replacement, Federal Aid Project No. BR-083-1(58) at Laie, Koolauloa, Oahu, Hawaii, Re: Tax Map Key Nos. (a) (1) 5-5-003: Portion of 201; (b) (1) 5-5-006: Portion of 038; (c) (1) 5-5-011:068 and Portion of 070; (d) (1) 5-5-013: Portions of 075, 076, 077, 078, 079, 080 and Puuahi Street; and (e) (1) 5-5-014: Portion of 001.

The purpose of the amendment is to request the Board of Land and Natural Resources (Board) to authorize the acquisition of Parcel 1 and to authorize temporary Grant of Easements for Construction parcels C4, C5, C6, C7, C8, C9, C10, C11, and C12. **APPROVED**

7. Request Approval to Issue a Month-To-Month Permit and Issuance of a Lease by Direct Negotiation to Aloha Petroleum LLC, for a Surface Pipeline Easement used to transport Petroleum Products at Pier 31, Honolulu Harbor, Island of Oahu, Tax Map Key No: (1) 1-5-036: Portion of 001, Governor's Executive Order No. 2903. **APPROVED**
8. Request Authorization to Acquire Land for the Department of Transportation, Highways Division, for Highway Purposes, relating to Fort Weaver Road Widening, Vicinity of Aawa Drive to Geiger Road, Federal Aid Project No. CMAQ-076-1(9), Honouliuli, Ewa, Island of Oahu, State of Hawaii, Tax Map Key Nos.: (1) 9-1-017: 059, (1) 9-1-017: 004, (1) 9-1-017: 078, (1) 9-1-017: Road, (1) 9-1-043: 160, (1) 9-1-122: 007, (1) 9-1-122: 004, and (1) 9-1-122: 006. **APPROVED**